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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	
Access Charge Reform	CC Docket No. 96-262
Price Cap Performance Review for Local Exchange Carriers	CC Docket No. 94-1
Transport Rate Structure	CC Docket No. 91-213
End User Common Line Charges	CC Docket No. 95-72

COMMENTS OF AT&T CORP.

Pursuant to the Commission's Further Notice of Proposed Rulemaking,[1] and Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these comments on the Commission's tentative conclusion to: (i) allow incumbent local exchange carriers ("LECs") to apply the newly created presubcribed interexchange carrier charge ("PICC") to special access lines, and (ii) reform the allocation of general support facilities ("GSF") in the interstate jurisdiction to ensure assignment of nonregulated costs to the billing and collection category. Because the

1 Access Charge Reform, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order (and Further Notice of Proposed Rulemaking), FCC 97-158, released May 16, 1997 ("Access Reform Order" and "FNPRM," respectively).

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Commission should not create new cross-subsidy opportunities and should eradicate those that exist, AT&T opposes the first proposal and endorses the second.

As AT&T shows in Part I, the Commission should not allow LECs to apply PICCs to special access, because it would establish a new cross-subsidy rather than serve to move rates closer to cost. Moreover, there is no reason to create this "interim solution" to a problem -- the anticipated shift by switched access customers to special access -- that may never arise and that, properly viewed, is a rational economic response to inflated switched access prices.

In Part II, AT&T demonstrates that the Commission correctly concludes that it should adopt a mechanism to ensure that the costs of general support facilities that support the LECs' nonregulated billing and collection activities can no longer be recovered through access charges. Because of its simplicity, AT&T favors use of the modified Big Three Expense allocator rather than reliance on special studies which could be subject to LEC manipulation.

I. THE COMMISSION SHOULD NOT IMPOSE PICCS ON SPECIAL ACCESS LINES.

In the Access Reform Order, the Commission adopted various measures to move interstate access rates closer to cost-based levels. Although the Commission rejected a prescriptive approach that would have immediately reduced interstate access charges to efficient, cost-based levels, it nonetheless undertook several steps that restructured access rate structures so that they will be recovered in a more cost-causative manner. In particular, it undertook to "reduce usage-sensitive interstate access charges by phasing out local loop and other non-traffic-sensitive (NTS) costs from those charges and directing incumbent local exchange carriers (LECs) to recover those NTS costs through more economically efficient, flat-rated charges" (para. 6). The ultimate objective of the Commission's plan is that over time the common line revenues of all price cap LECs would be recovered through flat-rate charges (para. 38).

At the same time, out of a concern that increasing the ceiling on the subscriber line charge ("SLC") for primary residential and single-line business lines above the current $3.50 per month could make telecommunications service unaffordable for some consumers, the Commission established a new flat-rate charge, known as the PICC, which would permit LECs to recover common line revenues not recovered via the SLC on a flat-rate basis from the interexchange carrier ("IXC") to which the line is presubscribed. For primary residential and single-line business lines the ceiling on the PICC gradually rises to a level that allows full recovery of common line revenues from flat charges assessed to both end users and IXCs (para. 38).

The Order lays out a detailed transition plan, which features higher SLC ceilings for nonprimary residential lines and multiline businesses and also imposes PICCs on those lines (paras. 38-39). Moreover, to the extent that revenues from

SLCs and PICCs on primary residential and single-line business lines are insufficient to recover the full common line revenues permitted, the residual amount is to be recovered through the PICCs on nonprimary residential and multiline business lines, with the result that as the PICC ceiling on the former increases that portion of the PICC imposed on nonprimary and multiline business lines to subsidize the former will fall to zero. Id. n.42.

In the FNPRM the Commission tentatively concludes that, because of the higher SLC ceiling ($9.00) and the new PICC (capped at $2.75 during the first year) for multiline business customers, it may be cost effective for some multiline business customers that are currently using switched access to purchase special access (para. 401). As the Commission explains, it is concerned that the migration of certain businesses from the public switched network to special access would result in decreased projected revenue from multiline SLCs (and PICCs), thus forcing the PICCs for all remaining switched access lines to increase. To deter this result, the Commission tentatively concludes in the FNPRM (para. 402) that it should permit price cap LECs to assess a PICC on special access lines to recover revenues for the common line basket.[2] The special

[2] Under the Commission's proposal, the special access PICC would not recover residual transport interconnection charge ("TIC") and retail marketing expenses, costs that are otherwise permitted to be recovered via SLCs and PICCs on switched access lines. Id., para. 403.

access PICC would be no higher than the PICC that the incumbent LEC could charge for a multiline business line. Id.

AT&T opposes the Commission's proposal to impose PICCs on special access lines. As the Commission points out, to impose PICCs on special access would be "a departure from established Commission practice that special access will not subsidize other services" (para. 404).[3] Given that subsidies generate inefficient economic behavior and the key purpose of universal service and access reform is to eliminate implicit subsidies from access charges and make access charges cost-based to allow for efficient behavior, the Commission should not take a step that would be inconsistent with and undermine these initiatives.[4]

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[3] Because the PICC is designed to recover expanded common line costs (including the nontraffic sensitive line port component of the local exchange switch), and special access customers do not use either the common line or the local switch, forcing them to pay PICCs would be a patent cross-subsidy. Furthermore, even apart from PICCs, special access customers already contribute toward common line revenues through the special access surcharge, which is imposed when a PBX leaks traffic that would have otherwise incurred switched access charges onto the public switched network. And, like all end users of interstate telecommunications services, special access customers will contribute to the federal universal service support fund. See Federal-State Joint Board on Universal Service Reform, CC Docket No. 96-45, Report and Order, FCC 97-157, released May 8, 1997, paras. 780, 844, 854.

[4] Indeed, imposing PICCs on special access would be tantamount to assessing a contribution charge -- a Part 69 rate element that has never been applied and which the Commission just eliminated -- finding that it violates Section 254's requirement that subsidies be equitable and nondiscriminatory. See Access Reform Order, para. 391 (deleting Sections 69.4(f) and 69.122 of the Commission's rules).

Moreover, in suggesting that special access PICCs may be necessary, the Commission simply assumes, without making any findings, that because of increased SLCs, multiline business customers will shift to special access because it will be in their economic interest to do so. However, the Commission ignores the fact that interstate special access and switched access are functionally *different* offerings; special access delivers toll traffic to the IXC whereas switched access also allows customers to access all local service functions. Even in those cases where a customer could forego local switching, the Commission overlooks the fact that quite apart from the higher cost of switched access, there are numerous other factors, including potential nonrecurring charges, the need to modify customer premises equipment, and other provisioning issues, coupled with the fact that the higher PICCs on switched multiline business lines would be temporary, that will tend to deter the predicted migration.

Nonetheless, to the extent that some customers do migrate from switched to special access, the Commission should regard this as a healthy, market driven way to put downward pressure on switched access rates. If, in fact, the LECs start losing customers to cost-based access alternatives (whether those alternatives are unbundled network elements ("UNEs") or special access) that result is completely consistent with the Commission's desire to have the market operate to drive switched access rates lower. Indeed, it is illogical to impose costs on currently cost-based access alternatives so that customers would not mind having to continue to pay inflated switched access rates.

In all events, if the migration which the Commission anticipates were to in fact materialize and require regulatory response, it can address the problem at that time. To the extent that diminution of common line revenues were to implicate recovery of historical LEC costs, the Commission has already announced that it will initiate a separate proceeding to address the matter (paras. 13-14).

If the Commission, nonetheless, decides to impose the PICC on special access (which it should *not*), it should make clear that the PICC may only be assessed on special access used for long distance services and that it may not be imposed when a special access line is used for local service, *i.e.*, when it functions as a UNE. Because the PICC is an access charge, this clarification would implement the Commission's finding that purchasers of UNEs are *not* required to pay access charges (para. 337). In addition, to avoid anticompetitive effects, the PICC should not apply to special access lines that are not provided by the LEC (for example, when an end user supplies its own special access line or purchases it from a competitive access provider). This outcome would parallel the Commission's determination that the LEC should not be permitted to charge the TIC when a non-LEC transport facility is used (para. 192). Consistent with the Commission's findings as to PRI ISDN, a DS1 special access line should in no event be assessed more than five PICCs.

II. THE COMMISSION SHOULD MODIFY THE ALLOCATION OF GENERAL SUPPORT FACILITIES TO ENSURE THAT THE COSTS OF BILLING AND COLLECTION SERVICES ARE NOT IMPOSED ON ACCESS CUSTOMERS.

As the Commission acknowledges in the ENPRM (para. 407) "the current allocation of GSF costs enables incumbent LECs to recover through regulated interstate access charges costs associated with the LECs' nonregulated billing and collection functions." This is because although the LECs use general purpose computer equipment, which is included in the GSF investment category, to provide nonregulated billing and collection services to IXCs, the costs of providing interstate billing and collection services are not treated as nonregulated in the Part 64 cost allocation process, and the Part 36 and 69 cost allocation processes used to identify these expenses do not assign them to the billing and collection category.[5]

Instead, GSF investment and expenses are recovered through interstate access charges, even though the costs they recover are clearly associated with nonregulated billing and collection services (para. 414). This result is contrary to the Commission's explicit goal of preventing carriers from

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[5] No GSF is allocated to the Part 69 billing and collection category because Part 69.307 apportions GSF investment among the billing and collection category, the interexchange category, and the access elements based on the amount of Central Office Equipment (COE), Cable and Wire Facilities (CWF), and Information Origination/Termination Equipment (IO/T) investment, and none of these three investment categories are allocated to billing and collection. Because GSF expenses are similarly allocated, no GSF expense flows to billing and collection either (para. 412).

using their regulated services to support their nonregulated operations. This burdening of regulated access with the costs of billing and collection is fundamentally inconsistent with the Commission's objective of ensuring full cost separation between regulated and nonregulated activities.[6]

To remedy this cross-subsidy, the FNPRM suggests two alternatives. Under the first option, a price cap LEC would conduct a special study to identify the percentage of investment in Account 2124 (general purpose computers) associated with billing and collection and then use that percentage as a basis for directly assigning GSF investment (Account 2110) and expenses (Account 6124) to the billing and collection category (para. 415). Under the second option, the Commission would modify Section 69.307 to allocate the interstate portion of Account 2110 based on the Big Three Expense allocator, used elsewhere in Part 69, excluding any account that is itself apportioned based on the apportionment of GSF. The GSF investment not allocated to the billing and collection category would then be apportioned among the access elements and interexchange category using the current investment allocator. The interstate portion of Account 6120, for GSF expenses, would then be apportioned among all elements and categories based on the overall apportionment of GSF investment (para. 417).

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6 Separation of the Costs of Regulated Telephone Services from Costs of Nonregulated Activities, 2 FCC Rcd. 1298, para. 37 (1987) ("Joint Cost Order").

AT&T supports use of the second option, a Big Three Expense allocator, for the allocation of GSF because it is straightforward and simple to administer and cannot be manipulated by the LEC. Use of a Big Three Expense allocator in Part 69 for the allocation of GSF is also appropriate because a Big Three Expense allocator is used in the Part 36 separations rules to allocate GSF costs to interstate. By contrast, as the FNPRM (para. 416) acknowledges, special studies can not only be costly, but they have been attacked (correctly, in AT&T's view) as giving the LEC too much discretion as to how it identifies costs. Although the Commission proposes that the special study would be described in each price cap LEC's cost allocation manual ("CAM") and subject to the same independent audit requirements as other regulated/nonregulated cost allocations identified therein, it is well established that the CAM process is not foolproof and misallocations, if they are ever caught, are frequently not identified for years.[7]

CONCLUSION

For the reasons stated above, and consistent with its objective of moving interstate access rates to cost-based

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[7] For example, not until March 1995 did the Commission issue show cause orders alleging that a number of Bell Operating Companies had misallocated costs, in violation of the Commission's rules, during the 1988-89 period -- more than six years earlier. See, e.g., Orders to Show Cause, Ameritech Tel. Operating Cos. 10 FCC Rcd. 5606 (1995); Bell Atlantic Tel. Cos., 10 FCC Rcd. 5099 (1995); Southwestern Bell Tel. Co., 10 FCC Rcd. 5306 (1995).

levels, the Commission should not apply PICCs to special access lines, and it should modify the allocation of GSF to the billing and collection category.

Respectfully submitted,

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